IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

WP(C).No. 32587 of 2006(D)

PETITIONER:

SAJEEV, AGED 32 YEARS,
S/O.SASI, THAKIDIVILAKATHU HOUSE,
KEEZHAROOR VILLAGE, NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:

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1. THE WELFARE FUND INSPECTOR,
KERALA TODDY WORKERS WELFARE FUND BOARD,
ULLOOR, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM.

2. THE CHIEF WELFARE FUND INSPECTOR,
KERALA TODDY WORKERS WELFARE FUND BOARD,
ULLOOR, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM.

3. THE DISTRICT LABOUR OFFICER,
THIRUVANANTHAPURAM.

4. S.V.BIJU, S/O.SURENDRAN,
MOOZHINADATHARIKATHU HOUSE, PANAVOOR P.O.,
NEDUMANGADU, THIRUVANANTHAPURAM DISTRICT,
C/O.KERALA TODDY & ABKARI WORKERS CONGRESS
(INTUC), REG.NO.448/1983, AFFI.NO.8026, KOLLAM.

5. KERALA TODDY & ABKARI WORKERS CONGRESS
(INTUC), REG.NO.448/1983, AAFFI.NO.8026,
KOLLAM REPRESENTED BY ITS GENERAL SECRETARY,
V.S.AJITHKUMAR.

R1 AND R2 BY SC SRI. RENIL ANTO

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 32587 OF 2006

Dated this the 8th day of January, 2007

JUDGMENT

The question raised in this Writ Petition is whether the fourth respondent is an employee of the toddy shop licensed to the petitioner. Petitioner was given licence from 2005-06 onwards. When petitioner took the stand that fourth respondent is not an employee, this Court directed the District Labour Officer to decide as to whether fourth respondent is an employee in the toddy shop licensed to the petitioner. Accordingly Ext.P5 is issued holding that fourth respondent is an employee working in the toddy shop from 2003 onwards. It is against this order that Writ Petition is filed. Pursuant to Ext.P5, Ext.P3 order is issued by the Welfare Fund Inspector, issuing registration to the fourth respondent. Adjudication of welfare fund contribution for the fourth respondent is separately made for the earlier years, wherein petitioner was not a party. The prayer in the Writ Petition is for cancellation of Exts. P3 and P5 issued by the Welfare Fund Inspector and District Labour Officer, respectively. I do not think there is any need for this Court to consider the findings in any of the impugned proceedings

because petitioner's grievance can be redressed in appeal against adjudication order as provided under Section 8(5) of the Toddy Workers Welfare Fund Act. So far as back years are concerned, petitioner cannot have any grievance because liability will be on the licensees who were running the toddy shop during those years. I make it clear that if adjudication is not completed or if adjudication is already completed by the first respondent for 2005-06 or advance contribution demanded for 2006-07 in respect of fourth respondent without hearing the petitioner, the first respondent should hear the petitioner, consider the findings in Ext.P3 and decide the matter afresh against which petitioner can file appeal under Section 8(5) of the Welfare Fund Act. I clarify that findings in Ext.P3 should not be taken as conclusive but should be treated as report for the first respondent to complete the adjudication. First respondent is directed to complete the adjudication proceedings for 2005-06 and demand advance contribution for 2006-07 without any delay and in any case within a period of two months from the date of production of a copy of this judgment by the petitioner.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge